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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013 - 863*

13 **BERNADETTE PASCUA MEDINA**

14 5370 El Morado St.  
Montclair, CA 91763

**A C C U S A T I O N**

15 Registered Nurse License No. 765149

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about January 11, 2010, the Board of Registered Nursing issued Registered  
23 Nurse License Number 765149 to Bernadette Pascua Medina ("Respondent"). The Registered  
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on April 30, 2013, unless renewed.

26 **JURISDICTION AND STATUTORY PROVISIONS**

27 3. This Accusation is brought before the Board of Registered Nursing ("Board"),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code ("Code") unless otherwise indicated.

2 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline  
3 any licensee, including a licensee holding a temporary or an inactive license, for any reason  
4 provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

5 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
7 licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code  
8 provides, in pertinent part, that the Board may renew an expired license at any time within eight  
9 years after the expiration.

10 6. Section 118, subdivision (b) of the Code provides, in pertinent part:

11 "The suspension, expiration, or forfeiture by operation of law of a license  
12 issued by a board in the department, or its suspension, forfeiture, or cancellation by  
13 order of the board or by order of a court of law, or its surrender without the written  
14 consent of the board, shall not, during any period in which it may be renewed,  
15 restored, reissued, or reinstated, deprive the board of its authority to institute or  
16 continue a disciplinary proceeding against the licensee upon any ground provided by  
17 law or to enter an order suspending or revoking the license or otherwise taking  
18 disciplinary action against the licensee on any such ground."

19 7. Section 490 of the Code provides, in pertinent part:

20 "(a) In addition to any other action that a board is permitted to  
21 take against a licensee, a board may suspend or revoke a license on the ground that  
22 the licensee has been convicted of a crime, if the crime is substantially related to the  
23 qualifications, functions, or duties of the business or profession for which the license  
24 was issued.

25 (b) Notwithstanding any other provision of law, a board may exercise  
26 any authority to discipline a licensee for conviction of a crime that is independent of  
27 the authority granted under subdivision (a) only if the crime is substantially related to  
28 the qualifications, functions, or duties of the business or profession for which the  
licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or  
verdict of guilty or a conviction following a plea of nolo contendere. Any action that  
a board is permitted to take following the establishment of a conviction may be taken  
when the time for appeal has elapsed, or the judgment of conviction has been  
affirmed on appeal, or when an order granting probation is made suspending the  
imposition of sentence, irrespective of a subsequent order under the provisions of  
Section 1203.4 of the Penal Code."

8. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed  
nurse or deny an application for a certificate or license for any of the following:

1 (a) Unprofessional conduct, which includes, but is not limited to, the  
2 following:

3 ...

4 (d) Violating or attempting to violate, directly or indirectly, or assisting  
5 in or abetting the violating of, or conspiring to violate any provision or term of this  
6 chapter or regulations adopted pursuant to it."

7 ...

8 (f) Conviction of a felony or of any offense substantially related to the  
9 qualifications, functions, and duties of a registered nurse, in which event the record of  
10 the conviction shall be conclusive evidence thereof."

11 9. Section 2762 of the Code provides, in pertinent part,

12 "In addition to other acts constituting unprofessional conduct within the  
13 meaning of this chapter it is unprofessional conduct for a person licensed under this  
14 chapter to do any of the following:

15 ...

16 (b) Use any controlled substance as defined in Division 10 (commencing  
17 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
18 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
19 in a manner dangerous or injurious to himself or herself, any other person, or the  
20 public or to the extent that such use impairs his or her ability to conduct with safety to  
21 the public the practice authorized by his or her license.

22 (c) Be convicted of a criminal offense involving the prescription,  
23 consumption, or self-administration of any of the substances described in  
24 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
25 record pertaining to, the substances described in subdivision (a) of this section, in  
26 which event the record of the conviction is conclusive evidence thereof."

### 27 REGULATORY PROVISIONS

28 10. California Code of Regulations, title 16, section 1444, provides in pertinent part:

"A conviction or act shall be considered to be substantially related to the  
qualifications, functions or duties of a registered nurse if to a substantial degree it  
evidences the present or potential unfitness of a registered nurse to practice in a  
manner consistent with the public health, safety, or welfare. Such convictions or acts  
shall include but not be limited to the following..."

### COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
administrative law judge to direct a licensee found to have committed a violation or violations of  
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
enforcement of the case.



1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Conviction for Alcohol Related Offense)**

3 16. Respondent is subject to disciplinary action under section 2761, subdivision (a) as  
4 defined in section 2762, subdivision (c) of the Code on the grounds of unprofessional conduct in  
5 that Respondent was convicted of a crime involving the use of drugs. Complainant refers to, and  
6 by this reference incorporates, the allegations set forth above in paragraph 13, as though set forth  
7 fully.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Violation of the Nursing Practice Act)**

10 17. Respondent is subject to disciplinary action under section 2761, subdivision (d) of the  
11 Code in that Respondent violated provisions of the Nursing Practice Act. Complainant refers to,  
12 and by this reference incorporates, the allegations set forth above in paragraphs 12 through 16, as  
13 though set forth fully.

14 **OTHER DISCIPLINARY CONSIDERATIONS**

15 18. To determine the degree of discipline, if any, to be imposed on Respondent,  
16 Complainant alleges, the following:

17 19. On or about December 19, 2011, Respondent admitted to violating the terms of her  
18 criminal probation in Case No. 1PK00495. Specifically, Respondent admitted to driving with  
19 alcohol in her system on October 1, 2011. The criminal court reinstated Respondent on  
20 probation, but ordered Respondent to serve fifteen (15) days in jail and perform ten days of  
21 manual labor.

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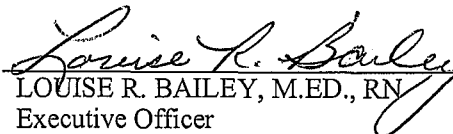
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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 765149, issued to Bernadette Pascua Medina;
2. Ordering Bernadette Pascua Medina to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: APRIL 8, 2013

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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